

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JOHN J. GAURUDER, et al.,
Defendants.

MEMORANDUM DECISION AND
ORDER ADOPTING REPORT AND
RECOMMENDATION

Case No. 1:06-CV-88 TS

Before the Court is the Report and Recommendation issued by Magistrate Judge Alba on March 3, 2008, recommending that Plaintiff's Motion for Default Judgment be granted. The Parties were informed of their right to file any objection to the Report and Recommendation within ten days after receiving it pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b).

On March 12, 2008, Defendants John and Jana Gauruder filed a document entitled "Alleged Defendant(s) Make No General Appearance For Granting Jurisdiction With This Court." The Court will construe this filing as an Objection to the Report and Recommendation.

In their Objection, Defendants refer to their Petition for Quashing twenty (20) day Summons,¹ which the Court denied on October 5, 2006.² Defendants appear to contend that their Petition for Quashing twenty (20) day Summons was actually a complaint serving as “the initial pleading in a lawsuit filed by [Defendants].”³

However, even if the Petition for Quashing twenty (20) day Summons could be construed as a complaint (or more properly characterized as a counterclaim), this does not excuse Defendants from their obligation under Federal Rule of Civil Procedure 12 to file a responsive pleading to Plaintiff’s Complaint. Additionally, to the extent that Defendants’ Objection challenges the Court’s Order denying their Petition for Quashing twenty (20) day Summons, the Court has already heard and denied a motion by Defendants to vacate that Order.⁴ Accordingly, the Court finds no merit in Defendants’ March 12, 2008 Objection.

Having reviewed the matter de novo, the Court finds that the record fully supports the Report and Recommendation. Consequently, the Court will adopt the Report and Recommendation in its entirety and grant Plaintiff’s Motion for Default Judgment.

It is therefore

ORDERED that the Report and Recommendation [Docket No. 48] is ADOPTED IN FULL. It is further

¹Docket No. 11.

²Docket No. 16.

³Docket No. 49, at 2.

⁴Docket No. 40.

ORDERED that Plaintiff's Motion for Default Judgment [Docket No. 36] is GRANTED.

It is further

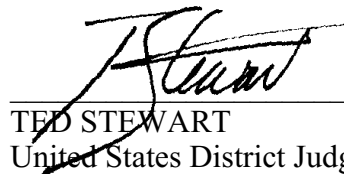
ORDERED that DEFAULT JUDGEMENT is ENTERED against Defendant John J. Gauruder as to all claims for relief in the Complaint, and in the amount of \$1,168,988.08, plus statutory interest and other additions from March 31, 2007. It is further

ORDERED that DEFAULT JUDGEMENT is ENTERED against Defendant Jana Gauruder as to all claims for relief in the Complaint, and in the amount of \$12,866.23, plus statutory interest and other additions from March 31, 2007. It is further

ORDERED that DEFAULT JUDGEMENT is ENTERED against Defendant Jana Gauruder, as Trustee of High Tetons, A Trust, determining that this Trust has no interest in the property described in Paragraph 22 of Plaintiff's Complaint.

DATED March 24, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "T. Stewart", is written over a horizontal line.

TED STEWART
United States District Judge